

RESOLUTION NO. 2005-26

A RESOLUTION OF THE LODI CITY COUNCIL
CERTIFYING THE FINAL ENVIRONMENTAL IMPACT
REPORT (EIR-03-01) RELATING TO THE LODI
SHOPPING CENTER; STATE CLEARINGHOUSE
NO. 2003042113

WHEREAS, an application was filed by Browman Development Company for a commercial shopping center at 2640 W. Kettleman Lane, more particularly described as Assessor's Parcel numbers 058-030-08 and 058-030-02 and a portion of 058-030-09; and

WHEREAS, the Community Development Director made a determination that the project may have impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR was prepared and distributed to reviewing agencies on April 14, 2003; and

WHEREAS, the Draft Environmental Impact Report (DEIR) was released on August 5, 2004, for circulation; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on September 9, 2004. Public comments on the DEIR were taken at that hearing; and

WHEREAS, a Final EIR (FEIR) responding to all public comments on the DEIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on November 22, 2004; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a public hearing before said Commission on December 8, 2004; and

WHEREAS, the Planning Commission of the City of Lodi has reviewed and certified the Final Environmental Impact Report prepared for the project; and

WHEREAS, that certification has been appealed to the Lodi City Council; and

WHEREAS, the Lodi City Council has reviewed and considered the FEIR prepared for the project; and

WHEREAS, the California Environmental Quality Act (CEQA) requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant effects, the decision-making agency make certain findings regarding those effects.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED as follows:

1. The foregoing recitals are true and correct.

2. THAT THE CITY COUNCIL finds that full and fair public hearings had been held on the EIR and the City Council having considered all comments received thereon, and determined that said EIR is adequate and complete; and said EIR is hereby incorporated herein by reference.
3. THAT THE CITY COUNCIL determines, in connection with the recommended approval of the proposed Use Permit application for the Lodi Shopping Center, that the FEIR for those actions has been prepared in compliance with CEQA and the state and local environmental guidelines and regulations, that it has independently reviewed and analyzed the information contained therein, including the written comments received during the EIR review period and the oral comments received at the public hearings, and that the FEIR represents the independent judgment of the City of Lodi as Lead Agency for the project.
4. THAT THE CITY COUNCIL finds and recognizes that the FEIR contains additions, clarifications, modifications, and other information in its responses to comments on the DEIR and also incorporates text changes to the EIR based on information obtained from the City since the DEIR was issued. The City Council finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would lessen significant environmental impacts of the project; and no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen the significant environmental impacts of the project. Accordingly, the City Council finds and determines that recirculation of the FEIR for further public review and comment is not warranted.
5. THAT THE CITY COUNCIL makes the following findings with respect to the significant effects on the environment resulting from the project, as identified in the hereinbefore mentioned FEIR, with the stipulation that (i) all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record is available for review through the Director of Community Development at his office in City Hall at 221 West Pine Street, Lodi, 95241, and (ii) any mitigation measures and/or alternatives that were suggested by the commentators on the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to comments set forth in the FEIR and elsewhere on the record.

I. AGRICULTURAL RESOURCES

A. LOSS OF PRIME AGRICULTURAL LAND

1. **Impact:** The project would convert approximately 40 acres of prime agricultural land to urban uses. As stated in the City's General Plan, no mitigation is available which would reduce this impact to a less-than-significant level except an outright prohibition of all development on prime agricultural lands. (Significant and Unavoidable Impact)
2. **Mitigation:** No feasible mitigation is available.

3. **Finding:** There are no feasible mitigation measures available that would reduce or avoid the significant loss of agricultural land if the project is implemented. Specific economic, legal, social, technological or other considerations make mitigation of this impact infeasible. In particular, mitigation is infeasible because it is not possible to re-create prime farmland on other lands that do not consist of prime agricultural soils. This impact therefore remains significant and unavoidable.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact is significant and unavoidable.

As discussed in the DEIR and FEIR, there are no feasible measures that would reduce the impact of loss of prime agricultural land resulting from the project to a less-than-significant level. The project's significant and unavoidable impacts to agricultural resources could be avoided by denying the project or requiring a reduced project, which would prevent the conversion of all or a portion of the site to urban uses. However, this action would not meet the objective of the applicant or the City of Lodi of developing the site for a commercial retail shopping plaza in conformance with the General Plan and zoning designations applicable to the site. In addition, denial of the project would not constitute a "feasible mitigation," and therefore would not be required under Section 15126.4 of the state CEQA Guidelines.

Although project-specific impacts to prime farmland cannot be feasibly mitigated to less-than-significant levels, the City has in fact minimized and substantially lessened the significant effects of development on prime agricultural land through the policies of its adopted General Plan. A principal purpose of the City's General Plan regulatory scheme is to minimize the impact on prime agricultural land resulting from the City's urban expansion. The City of Lodi is recognized for its compact growth pattern and clearly defined urban boundaries, its emphasis on infill development, and its deliberate and considered approach to urban expansion to accommodate housing and other long-term development needs. These guiding principles serve to minimize and forestall conversion of agricultural lands within the City's growth boundaries.

The General Plan policies related to agricultural preservation and protection are intended, and have been successful, in maintaining the productivity of prime agricultural land surrounding the City by controlling urban expansion in a manner which has the least impact on prime agricultural lands. In addition to maintaining compact and defined urban growth boundaries, this is primarily accomplished through the City's Growth Management Plan for Residential Development, which limits housing development to a growth rate of two percent per year, and which gives priority to proposed residential developments with the least impact on agricultural land, in accordance with General Plan policy.

The General Plan implementation program includes a directive to "identify and designate an agricultural and open space greenbelt around the urbanized area of the City" (Land Use and Growth Management Implementation Program 10). This buffer zone is intended to provide a well-defined edge to the urban area, and to minimize conflicts at the urban-agricultural interface by providing a transition zone separating urban from agricultural uses, and to remove uncertainty for agricultural operations near the urban fringe. The implementation of the greenbelt will involve the dedication of setback zones of varying widths between the edge of development and adjacent agricultural land. The City of

Lodi has initiated the creation of the greenbelt through the Westside Facilities Master Plan, which encompasses the largely undeveloped lands adjacent to the northwest portion of the City and extends westward approximately one-half mile west of Lower Sacramento Road. The designated greenbelt is located along the western edge of the Master Plan area and varies in width from 200 feet to approximately 350 feet. The greenbelt will perform an important function in minimizing urban-agricultural conflicts and promote the preservation of prime agricultural land west of the greenbelt; however, it will not constitute mitigation for loss of farmland since it cannot itself be farmed. In addition, the City is continuing to study the implementation of a greenbelt area between Stockton and Lodi, and is committed to the implementation of such a greenbelt.

It has been suggested that the purchase of conservation easements on, or fee title to, agricultural land not on the project site, or the payment of in-lieu fees for such purpose, be required as mitigation for loss of prime agricultural lands. However, conservation easements or other techniques used to protect existing agricultural lands do not create new equivalent agricultural lands which would compensate for the conversion of the subject lands to urban uses. In other words, the easements apply to agricultural land that already physically exists, so "preserving" such land from future conversion, which may or may not occur, does nothing to compensate for the reduction in the overall supply of farmland. Therefore, such easements do not provide true mitigation for the loss of a particular parcel of agricultural land, and as such cannot be considered project-specific mitigation for agricultural conversions due to a development project. This is not to say that the preservation of prime farmland is not a laudable goal, only that CEQA is not the proper mechanism for achieving this goal.

In summary, the City of Lodi makes an extensive effort to avoid the loss of prime farmland through its careful planning of urban areas. Nevertheless, the City recognizes that there is no feasible mitigation available to reduce this impact on the project site to a less-than-significant level and, therefore, the impact remains significant and unavoidable. These facts support the City's finding.

5. **Statement of Overriding Considerations:** The following is a summary of the benefits that the City Council finds outweigh the significant unavoidable impacts of the project, the full discussion of which can be found in the "Statement of Overriding Considerations" at the end of this document. The project is expected to provide substantial revenues for the City of Lodi General Fund through increased sales tax and property tax, and will generate employment opportunities for Lodi residents. The project will implement vital municipal infrastructure improvements in the project vicinity, and impact fees paid by the project will help fund public services throughout the City of Lodi. The project will implement adopted City plans and policies by accomplishing the City of Lodi's long-term development plans for commercial use at the project site, consistent with City's growth control measures prioritizing in-fill development within the existing City boundaries. The project will reflect a high quality of design, through the on-site implementation of the City's recently adopted Design Guidelines for Large Commercial Establishments, which will be particularly important at this visually prominent western gateway into the City.

II. GEOLOGY AND SOILS

A. SEISMIC HAZARD FROM GROUND SHAKING

1. **Impact:** Strong ground shaking occurring on the site during a major earthquake event could cause severe damage to project buildings and structures. (Significant Impact)
2. **Mitigation:** Structural damage to buildings resulting from ground shaking shall be minimized by following the requirements of the Uniform Building Code, and implementing the recommendations of the project geotechnical engineer.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

All portions of the project will be designed and constructed in accordance with the Uniform Building Code guidelines for Seismic Zone 3 to avoid or minimize potential damage from seismic shaking at the site. Conformance with these requirements will be ensured by the Building Division through its routine inspection and permitting functions. These facts support the City's findings.

B. SEISMICALLY-INDUCED GROUND SETTLEMENTS

1. **Impact:** There is a potential for seismically-induced ground settlements at the site, which could result in damage to project foundations and structures. (Significant Impact)
2. **Mitigation:** If subsequent design-level geotechnical studies indicate unacceptable levels of potential seismic settlement, available measures to reduce the effects of such settlements would include replacement of near-surface soils with engineered fill, or supporting structures on quasi-rigid foundations, as recommended by the project geotechnical engineer.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

As part of the mitigation for this impact, geotechnical investigations will be completed prior to the approval of building permits for specific buildings, and these buildings will be designed in conformance with the geotechnical report's recommendations to reduce this potential hazard. Implementation of the recommendations will be ensured by the Public Works Department and Building Division through their routine inspection and permitting functions. These facts support the City's findings.

C. STORMWATER BASIN BANK INSTABILITY

1. **Impact:** There is a potential for bank instability along the banks of the proposed basin. (Significant Impact)
2. **Mitigation:** Design-level geotechnical studies shall investigate the potential of bank instability at the proposed basin and recommend appropriate setbacks, if warranted.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

As part of the mitigation for this impact, geotechnical investigations will be completed along with the design-level improvement plans for the stormwater basin, and the Public Works Director will ensure that the basin is be constructed in conformance with the geotechnical report's recommendations to reduce this potential hazard. These facts support the City's findings.

D. SOIL CONSOLIDATION AND COLLAPSE

1. **Impact:** Soils present on the site are subject to moisture-induced collapse, which could result in damage to structures. (Significant Impact)
2. **Mitigation:** The effects of soil consolidation and collapse can be mitigated by placing shallow spread foundations on a uniform thickness of engineered fill; specific measures shall be specified by an engineering geologist, as appropriate, in response to localized conditions.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

As part of the mitigation for this impact, geotechnical investigations will be completed prior to the approval of building permits for specific buildings, and the Public Works Department and Building Division will ensure that these buildings are be designed in conformance with the geotechnical report's recommendations to reduce this potential hazard. These facts support the City's finding.

E. EXPANSIVE SOILS

1. **Impact:** There is a low, but not necessarily insignificant, potential for soils expansion at the site, which could result in differential subgrade movements and cracking of foundations. (Significant Impact)
2. **Mitigation:** The potential damage from soils expansion would be reduced by placement of non-expansive engineered fill below foundation slabs, or other measures as recommended by the geotechnical engineer.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

As part of the mitigation for this impact, geotechnical investigations will be completed prior to the approval of building permits for specific buildings, and the Public Works Department and Building Division will ensure that these buildings are designed in conformance with the geotechnical report's recommendations to reduce this potential hazard. These facts support the City's finding.

F. SOIL CORROSIVITY

1. **Impact:** The corrosion potential of the on-site soils could result in damage to buried utilities and foundation systems. (Significant Impact)
2. **Mitigation:** The potential damage from soil corrosivity can be mitigated by using corrosion-resistant materials for buried utilities and systems; specific measures shall be specified by an engineering geologist as appropriate in response to localized conditions.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

As part of the mitigation for this impact, geotechnical investigations will be completed prior to the City's approval specific buried utilities and foundation systems for buildings, and these features will be designed in conformance with the geotechnical report's recommendations to reduce this potential hazard. These facts support the City's finding.

III. HYDROLOGY AND WATER QUALITY

A. EROSION AND SEDIMENTATION DURING CONSTRUCTION

1. **Impact:** During grading and construction, erosion of exposed soils and pollutants from equipment may result in water quality impacts to downstream water bodies. (Significant Impact)
2. **Mitigation:** A comprehensive erosion control and water pollution prevention program shall be implemented during grading and construction. Typical measures required by the City of Lodi to be implemented during the grading and construction phase include the following:
 - Schedule earthwork to occur primarily during the dry season to prevent most runoff erosion.
 - Stabilize exposed soils by the end of October in any given year by revegetating disturbed areas or applying hydromulch with tetra-foam or other adhesive material.
 - Convey runoff from areas of exposed soils to temporary siltation basins to provide for settling of eroded sediments.
 - Protect drainages and storm drain inlets from sedimentation with berms or filtration barriers, such as filter fabric fences or rock bags or filter screens.
 - Apply water to exposed soils and on-site dirt roads regularly during the dry season to prevent wind erosion.
 - Stabilize stockpiles of topsoil and fill material by watering daily, or by the use of chemical agents.
 - Install gravel construction entrances to reduce tracking of sediment onto adjoining streets.
 - Sweep on-site paved surfaces and surrounding streets regularly with a wet sweeper to collect sediment before it is washed into the storm drains or channels.
 - Store all construction equipment and material in designated areas away from waterways and storm drain inlets. Surround construction staging areas with earthen berms or dikes.
 - Wash and maintain equipment and vehicles in a separate bermed area, with runoff directed to a lined retention basin.
 - Collect construction waste daily and deposit in covered dumpsters.
 - After construction is completed, clean all drainage culverts of accumulated sediment and debris.

The project also is required to comply with NPDES permit requirements, file a Notice of Intent with the Regional Water Quality Control Board and prepare a Storm Water Pollution Prevention Plan.

3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The above mitigation measures are derived from Best Management Practices (BMPs) recommended by the Regional Water Quality Control Board, and are to be included in the Storm Water Pollution Prevention Plan (SWPPP) to be prepared and implemented by the project proponent in conformance with the state's General Permit for Discharges of Storm Water Associated with Construction Activity. In addition, the project grading plans will conform to the drainage and erosion control standards of the City of Lodi, and will be incorporated into the project Improvement Plans to be approved by the City. Implementation of the erosion control measures will be monitored and enforced by City grading inspectors. These facts support the City's finding.

B. WATER QUALITY IMPACTS FROM NON-POINT POLLUTANTS

1. **Impact:** The project would generate urban nonpoint contaminants which may be carried in stormwater runoff from paved surfaces to downstream water bodies. (Significant Impact)
2. **Mitigation:** The project shall include stormwater controls to reduce nonpoint source pollutant loads.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

In January 2003, the City adopted a *Stormwater Management Plan (SMP)* to implement the provisions of its Phase II NPDES stormwater permit issued by the State Water Resources Control Board. The SMP contains a comprehensive program for the reduction of surface water pollution. The project includes feasible structural BMPs (Best Management Practices) such as vegetated swales and a stormwater basin. Much of the stormwater runoff generated in the northern and southern portions of the site will be conveyed to vegetated swales or bioswales which will provide partial filtering of pollutants and sediments. This partially treated runoff, along with all other parking lot and roof runoff from the project will be conveyed to the 3.65-acre stormwater basin planned adjacent to the southwest corner of the site. The basin would serve as a settling pond where suspended sediments and urban pollutants would settle out prior to discharge of the collected stormwater into the City's storm drain system, thereby reducing potential surface water quality impacts to drainages and water bodies. The pump intake for the basin will be located two feet above the bottom to provide for accumulation of sediments which would be cleaned out on a regular basis.

Non-structural BMPs typically required by the City include the implementation of regular maintenance activities (e.g., damp sweeping of paved areas; inspection and cleaning of storm drain inlets; litter control) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Stormwater catch basins will be required to be stenciled to discourage illegal dumping. In the landscaped areas, chemicals and irrigation water will be required to be applied at rates specified by the project landscape architect to minimize potential for contaminated runoff. Additional BMPs, as identified from a set of model practices developed by the state, may be required as appropriate at the time of Improvement Plan approval. These facts support the City's finding.

IV. BIOLOGICAL RESOURCES

A. LOSS OF HABITAT FOR SPECIAL-STATUS SPECIES

1. **Impact:** The project would result in the loss of approximately 40 acres of foraging habitat for three protected bird species, and could result in the loss of breeding habitat for two protected bird species. (Significant Impact)
2. **Mitigation:** In accordance with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and City of Lodi requirements, the project proponent will pay the applicable in-lieu mitigation fees to compensate for loss of open space and habitat resulting from development of the project site, and will ensure the completion of preconstruction surveys for Swainson's hawks, burrowing owls, and California horned larks, as well as the implementation of specified measures if any of these species are found on the site.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The in-lieu mitigation fees prescribed under the SJMSCP vary depending on the location of the site, its designation under the SJMSCP, and annual adjustments. The project site is covered by two designations or pay zones under the SJMSCP. The 20.5-acre eastern portion of the shopping center site, is designated "Multi-Purpose Open Space Lands," where in-lieu fees are currently \$862 per acre (2004). The 19.5-acre western portion of the site, which includes the proposed stormwater basin, is designated "Agricultural Habitat and Natural Lands," where in-lieu fees are currently \$1,724 per acre (2004). The compliance with the provisions of the SJMSCP, along with the prescribed preconstruction surveys and any required follow-up measures prescribed at that time, would fully mitigate the small reduction in foraging habitat resulting from development of the project site. These facts support the City's finding.

B. IMPACTS TO BURROWING OWLS AND RAPTORS

1. **Impact:** The project could adversely affect any burrowing owls that may occupy the site prior to construction, and could also adversely affect any tree-nesting raptor that may establish nests in trees along the project boundaries prior to construction. (Significant Impact)

2. **Mitigation:** The following measures shall be implemented to ensure that raptors (hawks and owls) are not disturbed during the breeding season:
- If ground disturbance is to occur during the breeding season (February 1 to August 31), a qualified ornithologist shall conduct a pre-construction survey for nesting raptors (including both tree- and ground-nesting raptors) on site within 30 days of the onset of ground disturbance. These surveys will be based on the accepted protocols (e.g., as for the burrowing owl) for the target species. If a nesting raptor is detected, then the ornithologist will, in consultation with CDFG, determine an appropriate disturbance-free zone (usually a minimum of 250 feet) around the tree that contains the nest or the burrow in which the owl is nesting. The actual size of the buffer would depend on species, topography, and type of construction activity that would occur in the vicinity of the nest. The setback area must be temporarily fenced, and construction equipment and workers shall not enter the enclosed setback area until the conclusion of the breeding season. Once the raptor abandons its nest and all young have fledged, construction can begin within the boundaries of the buffer.
 - If ground disturbance is to occur during the non-breeding season (September 1 to January 31), a qualified ornithologist will conduct pre-construction surveys for burrowing owls only. (Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors since these species would be expected to abandon their nests voluntarily during construction.) If burrowing owls are detected during the non-breeding season, they can be passively relocated by placing one-way doors in the burrows and leaving them in place for a minimum of three days. Once it has been determined that owls have vacated the site, the burrows can be collapsed and ground disturbance can proceed.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

While none of these species are currently on the project site, this mitigation measure is included as a contingency to be implemented in the event nesting occurs prior to construction. As specified in the Mitigation Monitoring and Reporting Program attached to this document, the Community Development Director will ensure that the pre-construction surveys are undertaken and that a report of the survey findings is submitted to the City prior to the approval of the project Improvement Plans. If any of the species are found on-site during the surveys, the Public Works Director will ensure that the required setback zones are established. No grading or construction in the vicinity of the nests would be permitted until the project biologist is satisfied that impacts to the species are mitigated or avoided. Relocation of burrowing owls would be allowed to occur only under the direction of the California Department of Fish and Game. These facts support the City's finding.

V. CULTURAL RESOURCES

A. IMPACTS TO CULTURAL RESOURCES

1. **Impact:** It is possible that previously undiscovered cultural materials may be buried on the site which could be adversely affected by grading and construction for the project. (Significant Impact)
2. **Mitigation:** Implementation of the following measures will mitigate any potential impacts to cultural resources:
 - In the event that prehistoric or historic archaeological materials are exposed or discovered during site clearing, grading or subsurface construction, work within a 25-foot radius of the find shall be halted and a qualified professional archaeologist contacted for further review and recommendations. Potential recommendations could include evaluation, collection, recordation, and analysis of any significant cultural materials followed by a professional report.
 - In the event that fossils are exposed during site clearing, grading or subsurface construction, work within a 25-foot radius of the find shall be halted and a qualified professional paleontologist contacted for further review and recommendations. Potential recommendations could include evaluation, collection, recordation, and analysis of any significant paleontological materials followed by a professional report.
 - If human remains are discovered, the San Joaquin County Coroner shall be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who would identify a most likely descendant to make recommendations to the land owner for dealing with the human remains and any associated grave goods, as provided in Public Resources Code Section 5097.98.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

While the detailed site reconnaissance by Basin Research Associates indicated that there is no evidence to suggest that cultural resources may be buried on site, the mitigation measure is a standard contingency that is applied in all but the least archaeologically sensitive areas. In the unlikely event artifacts are encountered during grading or excavation, the Public Works Director will enforce any required work stoppages, and the Community Development Director will contact the project archaeologist and will ensure that the archaeologist's recommendations are implemented. These facts support the City's finding.

VI. TRAFFIC AND CIRCULATION

A. NEAR TERM PLUS PROJECT UNSIGNALIZED INTERSECTION OPERATIONS

1. **Impact:** The addition of project-generated traffic would exacerbate LOS F operations at the intersection of Lower Sacramento Road / Harney Lane during both a.m. and p.m. peak hour conditions. (Significant Impact)
2. **Mitigation:** The project shall contribute its fair share cost to the installation of a traffic signal at Lower Sacramento Road and Harney Lane.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates calculated that with the above mitigation in place, the level of service at the affected intersection would rise to Level of Service C and thus meet the service standards of the City of Lodi. These facts support the City's finding.

B. CUMULATIVE PLUS PROJECT ACCESS CONDITIONS AT SIGNALIZED ACCESS DRIVE PROPOSED ALONG LOWER SACRAMENTO ROAD FRONTAGE

1. **Impact:** During the p.m. peak hour, the eastbound left-turn queue length of 250 feet (average queue) to 375 feet (95th Percentile queue) of exiting vehicles would extend west to the internal intersection located south of Pad 10. (Significant Impact)
2. **Mitigation:** Modify the project site plan to provide dual eastbound left-turn movements out of the project site onto northbound Lower Sacramento Road, consisting of a 150-foot left-turn pocket and a full travel lane back to the internal project site intersection. In the eastbound direction, a left-turn pocket and a full travel lane back to the signalized intersection will provide adequate capacity for inbound traffic. In addition, STOP signs shall be installed on all approaches at the on-site intersections adjacent to Pads 10 and 11, except the westbound approaches to provide continuous traffic flow into the project site and eliminate the potential for backups onto Lower Sacramento Road. On the Food 4 Less approach, a 100-foot left-turn pocket will be provided at the signalized intersection.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates indicates that with the above mitigations in place, the potential for traffic conflicts at this intersection would be eliminated. These facts support the City's finding.

C. CUMULATIVE PLUS PROJECT ACCESS CONDITIONS AT NORTHERN UNSIGNALIZED ACCESS DRIVE PROPOSED ALONG LOWER SACRAMENTO ROAD

1. **Impact:** The addition of a northbound left-turn lane under Access Alternative B would result in Level of Service F conditions at this unsignalized intersection. (This condition does not occur under Access Alternative A where no northbound left-turn movement would occur.) In addition, a non-standard 60-foot back-to-back taper is provided between the northbound left-turn lane (Alternative B) at the northern unsignalized access drive and the southbound left-turn lane at the signalized project entrance. (Significant Impact)
2. **Mitigation:** The following mitigations shall be implemented:
 - a. Extend a third southbound travel lane on Lower Sacramento Road from its current planned terminus at the signalized project driveway to the southern boundary of the project site;
 - b. Construct a 100-foot southbound right-turn lane at the signalized project driveway;
 - c. Extend the southbound left-turn pocket by 100 feet;
 - d. Extend the taper from 60 feet to a City standard 120-foot taper;
 - e. Eliminate the northbound left-turn lane into the northern driveway.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates indicates that with the above mitigations in place, the potential for traffic conflicts at this intersection would be eliminated. These facts support the City's finding.

D. INADEQUATE LEFT-TURN LANE TAPER ON WESTGATE DRIVE

1. **Impact:** On Westgate Drive, a non-City standard 64-foot back-to-back taper is proposed between the northbound left-turn lane at W. Kettleman Lane and the southbound left-turn lane at the northern project driveway. (Significant Impact)
2. **Mitigation:** The project site plan shall be modified to move the north project driveway on Westgate Drive south by 25 feet in order to accommodate the required 90-foot taper length.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates indicates that with the above mitigation in place, the potential for traffic conflicts arising from inadequate queuing capacity on Westgate Drive would be eliminated. These facts support the City's finding.

E. INADEQUATE LEFT-TURN LANE TAPER ON LOWER SACRAMENTO ROAD

1. **Impact:** On Lower Sacramento Road, a non-City standard 70-foot back-to-back taper is proposed between the dual northbound left-turn lanes at W. Kettleman Lane and the southbound left-turn lane at the middle Food 4 Less Driveway. (Significant Impact)
2. **Mitigation:** The project site plan shall be modified to extend the northbound left-turn pocket to 250 feet, and to extend the taper from 70 feet to a City standard 120-foot taper.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

While the traffic report by Fehr & Peers indicated that mitigation for this impact would need to be achieved through closure of the southbound left-turn lane at the middle Food 4 Less Driveway, the applicant instead proposes to provide additional roadway right-of-way along the project frontage on Lower Sacramento Road to accommodate side-by-side left-turn lanes (instead of the back-to-back turn pockets as originally proposed). This would allow the mitigation to be implemented as specified while also maintaining the existing southbound left turn. Fehr & Peers Associates has reviewed the proposed roadway configuration and concurs that it would serve as adequate mitigation for the deficiencies noted in the EIR traffic impact report. Therefore, Fehr & Peers Associates concludes that with the above mitigation in place, the potential for traffic conflicts at this intersection would be eliminated. These facts support the City's finding.

F. PUBLIC TRANSIT SERVICE

1. **Impact:** Development of the project would create a demand for increased public transit service above that which is currently provided or planned. (Significant Impact)
2. **Mitigation:** The project applicant shall work with and provide fair share funding to the City of Lodi Grapeline Service and the San Joaquin Regional Transit District to expand transit service to the project.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates indicates that with the above mitigation in place, the additional demand for transit service generated by the project would not exceed the capacity of the transit system. These facts support the City's finding.

G. PUBLIC TRANSIT STOP

1. **Impact:** Development of the project would create an unmet demand for public transit service which would not be met by the single transit stop proposed for the northwest portion of the project. (Significant Impact)
2. **Mitigation:** Modify the project site plan to: 1) provide a bus bay and passenger shelter at the proposed transit stop; and 2) include a second transit stop and passenger shelter in the eastern portion of the project near Lower Sacramento Road.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates indicates that with the above mitigations in place, the transit service to the site would be adequate to meet ridership demand and would be provided in a manner which is convenient to transit riders, and which avoids traffic and circulation conflicts or congestion. These facts support the City's finding.

H. PEDESTRIAN FACILITIES

1. **Impact:** Development of the project would create an unmet demand for pedestrian facilities along West Kettleman Lane, Lower Sacramento Road and Westgate Drive, and internally between the different areas of the project site. (Significant Impact)
2. **Mitigation:** Pedestrian walkways and crosswalks shall be provided to serve Pads 8, 9, and 12 in order to complete the internal pedestrian circulation system.
3. **Finding:** The above feasible mitigation measure, which has been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

The traffic report prepared by Fehr & Peers Associates indicates that with the above mitigations in place, the pedestrian facilities provided in the project would be adequate to meet demand and provide for safe pedestrian movement throughout the project. These facts support the City's finding.

VII. NOISE

A. NOISE FROM PROJECT ACTIVITY

1. **Impact:** Noise generated by activity associated with the project would elevate off-site noise levels at existing and future residences in the vicinity. (Significant Impact)
2. **Mitigation:** The following noise mitigations are identified as appropriate for the various types of project activities, to reduce project noise at both existing and planned future adjacent development:

Rooftop Mechanical Equipment. To ensure that the potential noise impact of mechanical equipment is reduced to less-than-significant levels, the applicant shall submit engineering and acoustical specifications for project mechanical equipment, for review prior to issuance of building permits for each retail building, demonstrating that the equipment design (types, location, enclosure specifications), combined with any parapets and/or screen walls, will not result in noise levels exceeding 45 dBA (L_{eq} -hour) for any residential yards.

Parking Lot Cleaning. To assure compliance with the City of Lodi Noise Regulations regarding occasional excessive noise, leaf blowing in the southeast corner of the project site shall be limited to operating during the hours of 7:00 a.m. to 10:00 p.m.

3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact is significant and unavoidable.

The City of Lodi Building Official will require demonstration of compliance with noise specifications for rooftop mechanical equipment in conjunction with each individual building permit required for the project. The enforcement of the City Noise Regulations with respect to leaf blower noise will be the responsibility of the Community Development Director, who may enforce the noise restrictions with or without a citizen complaint from a nearby resident. These facts support the City's finding.

B. NOISE FROM STORMWATER BASIN PUMP

1. **Impact:** Occasional pumping of water from the stormwater basin would generate noise at the planned future residential areas to the south and west of the basin. (Significant Impact)
2. **Mitigation:** The following measures shall be implemented to mitigate potential noise generated by the stormwater basin pump:
 - 1) The pump shall be located as far as is feasible from the nearest future planned residential development. In addition, the pump facility shall be designed so that noise levels do not exceed 45 dBA at the nearest residential property lines. The pump may need to be enclosed to meet this noise level. Plans and specifications for the pump facility shall be included in the Improvement Plans for the project and reviewed for compliance with this noise criterion.
 - 2) In order to avoid creating a noise nuisance during nighttime hours, pump operations shall be restricted to the hours of 7 a.m. to 10 p.m., except under emergency conditions (e.g., when the basin needs to be emptied immediately to accommodate flows from an imminent storm).

3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact is significant and unavoidable.

The City of Lodi Public Works Director will require demonstration of compliance with noise specifications for the basin pump in conjunction with the Improvement Plans for the project. The enforcement of the City Noise Regulations with respect to the hours of pump operation will be the responsibility of the Community Development Director, who may enforce the noise restrictions with or without a citizen complaint from a nearby resident. These facts support the City's finding.

C. CONSTRUCTION NOISE

1. **Impact:** Noise levels would be temporarily elevated during grading and construction. (Significant Impact)
2. **Mitigation:** Short-term construction noise impacts shall be reduced through implementation of the following measures:

Construction Scheduling. The applicant/contractor shall limit noise-generating construction activities to daytime, weekday, (non-holiday) hours of 7:00 a.m. to 6:00 p.m.

Construction Equipment Mufflers and Maintenance. The applicant/contractor shall properly muffle and maintain all construction equipment powered by internal combustion engines.

Idling Prohibitions. The applicant/contractor shall prohibit unnecessary idling of internal combustion engines.

Equipment Location and Shielding. The applicant/contractor shall locate all stationary noise-generating construction equipment such as air compressors as far as practicable from existing nearby residences. Acoustically shield such equipment as required to achieve continuous noise levels of 55 dBA or lower at the property line.

Quiet Equipment Selection. The applicant/contractor shall select quiet construction equipment, particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order.

Notification. The applicant/contractor shall notify neighbors located adjacent to, and across the major roadways from, the project site of the construction schedule in writing.

Noise Disturbance Coordinator. The applicant/contractor shall designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would notify the City, determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and would institute reasonable measures

to correct the problem. Applicant/contractor shall conspicuously post a telephone number for the disturbance coordinator at the construction site, and include it in the notice sent to neighboring property owners regarding construction schedule. All complaints and remedial actions shall be reported to the City of Lodi by the noise disturbance coordinator.

3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

Each phase of grading and construction will be required to implement the above noise control measures and other measures which may be required by the City of Lodi. The construction noise control measures will be required to be included as part of the General Notes on the project Improvement Plans, which must be approved by the City Public Works Department prior to commencement of grading. Although there are noise sensitive uses such as residential neighborhoods in the vicinity of the project site, most existing dwellings would be at least 200 feet away from the nearest grading and construction activity. This distance separation from the noise sources and the effective implementation of the above mitigation measures by the contractors, as monitored and enforced by City Public Works Department and Building Division, would reduce the noise levels from this temporary source to acceptable levels. These facts support the City's finding.

VIII. AIR QUALITY

A. CONSTRUCTION EMISSIONS

1. **Impact:** Construction and grading for the project would generate dust and exhaust emissions that could adversely affect local and regional air quality. (Significant Impact)
2. **Mitigation:** Dust control measures, in addition to those described in the FEIR, shall be implemented to reduce PM₁₀ emissions during grading and construction, as required by the City of Lodi and the San Joaquin Valley Air Pollution Control District (Air District).
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

Each phase of grading and construction will be required to implement the dust control measures specified in the San Joaquin Valley Air Pollution Control District's Regulation VIII, as well as additional practices itemized in the FEIR and as otherwise required by the City of Lodi. The dust control measures will be required to be included as part of the General Notes on the project Improvement Plans, which must be approved by the City Public Works Department prior to

commencement of grading. The Public Works Department will monitor and enforce the dust suppression requirements as part of their site inspection duties. Violations of the requirements of Regulation VIII are also subject to enforcement action by the Air District. Violations are indicated by the generation of visible dust clouds and/or generation of complaints. These facts support the City's finding.

B. REGIONAL AIR QUALITY

1. **Impact:** Emissions from project-generated traffic would result in air pollutant emissions affecting the entire air basin. (Significant Impact)
2. **Mitigation:** Project design measures shall be implemented to reduce project area source emissions, and a Transportation Demand Management (TDM) plan should be implemented to reduce project traffic and resulting air emissions, including those measures described in the FEIR; however, these measures would not reduce the impact to a less-than-significant level.
3. **Finding:** While the implementation of specified design measures and a TDM plan in conjunction with the project would reduce the level of the air quality impact, the impact would not be reduced to less-than-significant level. Therefore, the impact is significant and unavoidable.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact is significant and unavoidable.

Due to the large size of the project and the very low thresholds for significance established by the Air District for the emission of Reactive Organic Gases, Nitrogen Oxides, and fine Particulate Matter, the air quality report by Donald Ballanti concluded that the project would exceed the significance thresholds established for these pollutants. In addition, large commercial shopping centers attract high volumes of personal vehicles, and transportation alternatives such as public transit, carpooling, and bicycling have limited effectiveness in reducing automobile traffic generated by this type of project. Thus, although the City will require the implementation of selected Transportation Demand Management measures, as appropriate, it is estimated by Donald Ballanti that such measures would reduce project-generated traffic by no more than five percent. The small reduction in associated emissions would not reduce overall regional air quality impacts to less-than-significant levels. These facts support the City's finding.

5. **Statement of Overriding Considerations:** The following is a summary of the benefits that the City Council has found to outweigh the significant unavoidable impacts of the project, the full discussion of which can be found in the "Statement of Overriding Considerations" at the end of this document. The project is expected to provide substantial revenues for the City of Lodi General Fund through increased sales tax and property tax, and will generate employment opportunities for City residents. The project will implement vital municipal infrastructure improvements in the project vicinity, and impact fees paid by the project will help fund public services throughout the City of Lodi. The project will implement adopted City plans and policies by accomplishing the City of Lodi long-term development plans for commercial use at the project site. The project will reflect a high quality of design, through the on-site implementation of the City's recently adopted Design Guidelines for Large Commercial Establishments, which will be particularly important at this visually prominent western gateway into the City.

C. RESTAURANT ODORS

1. **Impact:** The restaurant uses in the project could release cooking exhausts which could result in noticeable odors beyond project boundaries. (Significant Impact)
2. **Mitigation:** All restaurant uses within the project shall locate kitchen exhaust vents in accordance with accepted engineering practice and shall install exhaust filtration systems or other accepted methods of odor reduction.
3. **Finding:** The above feasible mitigation measures, which have been required in, or incorporated into, the project, will avoid or substantially lessen the significant environmental impact described above to a less-than-significant level.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be reduced to a less-than-significant level.

While the nature and location of restaurants within the project has not been determined, this mitigation requirement will ensure that cooking odors from any on-site restaurants will not result in annoyance or nuisance conditions. The Building Official will ensure that the required equipment is included on the plans, and will ensure that the equipment is properly installed and functioning. These facts support the City's finding.

IX. CUMULATIVE IMPACTS

A. AGRICULTURAL LAND CONVERSION

1. **Impact:** The conversion of prime agricultural land at the project site, combined with the agricultural conversion associated with other foreseeable projects in the area, would result in a cumulatively substantial impact to agricultural resources. (Significant Impact)
2. **Mitigation:** No feasible mitigation is available.
3. **Finding:** As with the project-specific agricultural impacts, there is no feasible mitigation measure available that would reduce or avoid the significant cumulative loss of agricultural land resulting from development of the proposed project and other foreseeable projects in the area. Specific economic, legal, social, technological or other considerations make mitigation of this impact infeasible. In particular, mitigation is infeasible because it is not possible to re-create prime farmland on other lands that do not consist of prime agricultural soils. This impact therefore remains significant and unavoidable.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact is significant and unavoidable.

As discussed in the Draft EIR and Final EIR, there are no feasible measures that would reduce the impact of loss of prime agricultural land to a less-than-significant level. Although impacts to prime farmland cannot be feasibly mitigated to less-than-significant levels, the City has in fact minimized and substantially lessened the significant effects of development on prime

agricultural land through the policies of its adopted General Plan. A principal purpose of the City's General Plan regulatory scheme is to minimize the impact on prime agricultural land resulting from the City's urban expansion. The City of Lodi is recognized for its compact growth pattern and clearly defined urban boundaries, its emphasis on infill development, and its deliberate and considered approach to urban expansion to accommodate housing and other long-term development needs. These guiding principles serve to minimize and forestall conversion of agricultural lands within the City's growth boundaries.

The General Plan policies related to agricultural preservation and protection are intended, and have been successful, in maintaining the productivity of prime agricultural land surrounding the City by controlling urban expansion in a manner which has the least impact on prime agricultural lands. In addition to maintaining compact and defined urban growth boundaries, this is primarily accomplished through the City's Growth Management Plan for Residential Development, which limits housing development to a growth rate of two percent per year, and which gives priority to proposed residential developments with the least impact on agricultural land, in accordance with General Plan policy.

The General Plan implementation program includes a directive to "identify and designate an agricultural and open space greenbelt around the urbanized area of the City" (Land Use and Growth Management Implementation Program 10). This buffer zone is intended to provide a well-defined edge to the urban area, and to minimize conflicts at the urban-agricultural interface by providing a transition zone separating urban from agricultural uses, and to remove uncertainty for agricultural operations near the urban fringe. The implementation of the greenbelt will involve the dedication of setback zones of varying widths between the edge of development and adjacent agricultural land. The City of Lodi has initiated the creation of the greenbelt through the Westside Facilities Master Plan, which encompasses the largely undeveloped lands adjacent to the northwest portion of the City and extends westward approximately one-half mile west of Lower Sacramento Road. The designated greenbelt is located along the western edge of the Master Plan area and varies in width from 200 feet to approximately 350 feet. The greenbelt will perform an important function in minimizing urban-agricultural conflicts and promote the preservation of prime agricultural land west of the greenbelt; however, it will not constitute mitigation for loss of farmland since it cannot itself be farmed. In addition, the City is continuing to study the implementation of a greenbelt area between Stockton and Lodi, and is committed to the implementation of such a greenbelt.

It has been suggested that the purchase of conservation easements on, or fee title to, agricultural land, or the payment of in-lieu fees for such purpose, be required as mitigation for loss of prime agricultural lands. However, conservation easements or other techniques used to protect existing agricultural lands do not create new equivalent agricultural lands which would compensate for the conversion of the subject lands to urban uses. In other words, the easements apply to agricultural land that already physically exists, so "preserving" such land from future conversion, which may or may not occur, does nothing to compensate for the reduction in the overall supply of farmland. Therefore, such easements do not provide true mitigation for the loss of a particular parcel of agricultural land, and as such cannot be considered as mitigation for agricultural conversions due to development projects. This is not to say that the preservation of prime farmland is not a laudable goal, only that CEQA is not the proper mechanism for achieving this goal.

In summary, the City of Lodi makes an extensive effort to avoid the loss of prime farmland through its careful planning of urban areas within its boundaries. Nevertheless, the City recognizes that there is no feasible mitigation available to reduce this impact to a less-than-significant level on a project-specific or cumulative basis and, therefore, the impact remains cumulatively significant and unavoidable. These facts support the City's finding.

5. **Statement of Overriding Considerations:** The following is a summary of the benefits that the City Council has found to outweigh the significant unavoidable impacts of the project, the full discussion of which can be found in the "Statement of Overriding Considerations" at the end of this document. The project is expected to provide substantial revenues for the City of Lodi General Fund through increased sales tax and property tax, and will generate employment opportunities for Lodi residents. The project will implement vital municipal infrastructure improvements in the project vicinity, and impact fees paid by the project will help fund public services throughout the City of Lodi. The project will implement adopted City plans and policies by accomplishing the City of Lodi's long-term development plans for commercial use at the project site, consistent with the City's growth control measures prioritizing in-fill development within the existing City boundaries. The project will reflect a high quality of design, through the on-site implementation of the City's recently adopted Design Guidelines for Large Commercial Establishments, which will be particularly important at this visually prominent western gateway into the City.

B. REGIONAL AIR QUALITY IMPACTS

1. **Impact:** Emissions from project-generated traffic, combined with the emissions of other foreseeable projects in the area, would result in air pollutant emissions affecting the entire air basin. (Significant Cumulative Impact)
2. **Mitigation:** For the proposed project, design measures shall be implemented to reduce project area source emissions, and a Transportation Demand Management (TDM) plan should be implemented to reduce project traffic and resulting air emissions. However, these measures would not reduce the impact to a less-than-significant level, either on a project-specific basis or on a cumulative basis.
3. **Finding:** While the implementation of specified design measures and a TDM plan in conjunction with the project would reduce the level of the air quality impact, the impact would not be reduced to less-than-significant level. This impact would be exacerbated by emissions from other foreseeable projects in the area. Therefore, the cumulative impact is significant and unavoidable.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact is significant and unavoidable.

Due to the large size of the project and the very low thresholds for significance established by the Air District for the emission of Reactive Organic Gases, Nitrogen Oxides, and fine Particulate Matter, the air quality report by Donald Ballanti concluded that the project would far exceed the significance thresholds established for these pollutants. In addition, large commercial shopping centers attract high volumes of personal vehicles, and transportation alternatives such as public transit, carpooling, and bicycling have limited effectiveness in reducing

automobile traffic generated by this type of project. Thus, although the City will require the implementation of selected Transportation Demand Management measures, as appropriate, it is estimated by Donald Ballanti that such measures would reduce project-generated traffic by no more than five percent. The small reduction in associated emissions would not reduce overall regional air quality impacts resulting from the proposed project to less-than-significant levels. Other foreseeable projects in the area may be more suitable for the implementation of TDM measures to reduce emissions on an individual project basis; however, the cumulative impact would not be reduced to a less-than-significant level. These facts support the City's finding.

5. **Statement of Overriding Considerations:** The following is a summary of the benefits that the City Council has found to outweigh the significant unavoidable impacts of the project, the full discussion of which can be found in the "Statement of Overriding Considerations" at the end of this document. The project is expected to provide substantial revenues for the City of Lodi General Fund through increased sales tax and property tax, and will generate employment opportunities for City residents. The project will implement vital municipal infrastructure improvements in the project vicinity, and impact fees paid by the project will help fund public services throughout the City of Lodi. The project will implement adopted City plans and policies by accomplishing the City of Lodi's long-term development plans for commercial use at the project site, consistent with City's growth control measures prioritizing in-fill development within the existing City boundaries. The project will reflect a high quality of design, through the on-site implementation of the City's recently adopted Design Guidelines for Large Commercial Establishments, which will be particularly important at this visually prominent western gateway into the City.

FINDINGS CONCERNING ALTERNATIVES

Under CEQA, an EIR must describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. Even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-makers may reject the alternative if they determine that specific considerations make the alternative infeasible. The findings with respect to the alternatives identified in the Final EIR are described below.

I. NO PROJECT ALTERNATIVE

- A. **Description of the Alternative:** The No Project alternative consists of not building on the project site and possibly resuming agricultural cultivation of the property for oats, hay, or row crops.
- B. **Comparison to the Project:** The No Project alternative would avoid some of the significant unmitigable effects of the proposed project, such as conversion of prime farmland and regional air quality impacts. For all other areas of concern, the differences in impacts between the No Project alternative and the proposed project would not be significant because the project impacts could be reduced to less-than-significant levels through feasible mitigation measures. On balance, the No Project alternative would be superior to the proposed project because it would not result in the significant unavoidable impacts to agricultural resources and air quality which are associated with the proposed project, and because it would result in little or no impact in the other impact categories.

- C. **Finding:** This alternative is hereby rejected for the reasons set forth below.

The substantial revenues for the City of Lodi General Fund through increased sales tax and property tax that would be generated by the project would be lost, as would the employment opportunities for City residents created by the project. The vital municipal infrastructure improvements that would be constructed by the project would be foregone, as would the impact fees paid by the project which would help fund vital public services throughout the City of Lodi. Unlike the proposed project, the No Project alternative would not implement adopted City plans and policies by accomplishing the City of Lodi long-term development plans for commercial use at the project site, consistent with City's growth control measures prioritizing in-fill development within the existing City boundaries. The No Project alternative also would not implement the high quality of design reflected in the proposed project for this visually prominent western gateway into the City.

II. REDUCED PROJECT SIZE ALTERNATIVE

- A. **Description of the Alternative:** This alternative would consist of a substantially reduced project site of approximately 24 acres, including about 22 gross acres for retail development and 2 acres for the stormwater basin. This would represent approximately 60 percent of the proposed project size of 40 acres. This alternative would include the Wal-Mart Supercenter, as proposed, but would not include any of the ancillary retail pads proposed in the project.
- B. **Comparison to the Project:** The Reduced Project Size alternative would result in a slight reduction in the levels of impact associated with the proposed project in several topic areas, although these impacts would be mitigated to less-than-significant levels under the proposed project. For the two significant and unavoidable impacts associated with the proposed project – impacts to agricultural resources and regional air quality – the Reduced Project Size alternative would lessen these impacts but would not avoid them or reduce them to less-than-significant levels. Thus, although the Reduced Project Size alternative would be slightly superior to the proposed project, it would not achieve the CEQA objective of avoiding the significant impacts associated with the project.

- C. **Finding:** This alternative is hereby rejected for the reasons set forth below.

The revenues for the City of Lodi General Fund that would be generated by the project would be substantially reduced, as would the number of employment opportunities for City residents created by the project. This alternative would not complete the vital municipal infrastructure improvements that would be constructed by the project, and would substantially reduce the impact fees paid by the project to help fund vital public services throughout the City of Lodi. This alternative would lessen the City's ability to implement adopted City plans and policies for accomplishing long-term development plans for commercial use at the project site. This alternative would also compromise the City's ability to implement the high quality of design reflected in the proposed project for this visually prominent western gateway into the City.

III. ALTERNATIVE PROJECT LOCATION

- A. **Description of the Alternative:** An alternative project site was identified in the unincorporated area of San Joaquin County known as Flag City, consisting of

approximately 36 gross acres in the northeast quadrant of Highway 12 and Thornton Road, just east of I-5. To allow direct comparison, it was assumed that a 36-acre portion of the lands at this location would be developed with roughly the same land use configuration and intensity as the proposed project.

- B. **Comparison to the Project:** The impacts associated with development of the Flag City site would be somewhat greater than for the proposed project site. Although the impacts for many categories would be similar for both project locations, development of the Flag City site would result in negative effects in terms of land use policy, and the resulting potential for growth inducement, which would not occur with the proposed project site. Traffic impacts would be greater for the Flag City site, as would impacts to utilities and public services, although these impacts would be less than significant or could be fully mitigated. More importantly, the alternative project site would result in the same significant and unavoidable impacts to agricultural resources and air quality as are associated with the proposed project. Therefore, the alternative site would not lessen or avoid the significant and unavoidable impacts of the project.
- C. **Finding:** This alternative is hereby rejected for the reasons set forth below.

The alternative project site is not environmentally superior to the proposed project site. In addition, due to its location outside the City of Lodi, the alternative site would not provide the benefits associated with the proposed project including increased municipal revenues and impact fees for providing services, creation of employment opportunities for City residents, construction of vital municipal infrastructure improvements, and the opportunity to implement City goals and policies with respect to the commercial development of the project site (consistent with City's growth control measures prioritizing in-fill development within the existing City boundaries), and the chance to provide a high quality development at the western gateway to the City.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Of the three project alternatives considered, only the No Project alternative would avoid or substantially lessen the significant impacts of the project. The significant and unavoidable impacts to agricultural resources and air quality associated with the proposed project would both be avoided by the No Project alternative. Since all other project impacts are either less than significant or can be reduced to less-than-significant levels through the implementation of feasible mitigation measures, the No Project alternative would not offer substantial reductions in impact levels under the other impact categories. Therefore, the No Project alternative would represent the environmentally superior alternative to the proposed project. The No Project alternative was not selected because it would not meet the applicant's objective of developing the site for shopping center uses; nor would it meet the City's goals of enhancing its revenue base, creating jobs, providing vital municipal infrastructure, and implementing the City's policy objective of developing the site with commercial retail uses.

The CEQA Guidelines, at Section 15126.6(e)(2), require that if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives. The Reduced Project Size alternative was found to result in the same significant and unavoidable impacts to agricultural resources and air quality as the proposed project. However, it would result in slightly lower levels of impact in several impact categories, although these impacts would all be reduced to less-than-significant levels in conjunction with the proposed project. Therefore, the Reduced Project Size alternative represents the environmentally superior alternative. The Reduced Project Size alternative was not

selected by the applicant because it would not fulfill the project objective of a 30-acre minimum project size needed for project feasibility. It also would be substantially less effective than the proposed project in fulfilling the City's objective of enhancing its fiscal resources through increased sales tax and property tax revenues, or in meeting the objectives of creating new jobs, providing vital municipal infrastructure, and implementing the City's policy objective of developing the proposed project site with commercial retail uses.

In conclusion, there are no feasible environmentally superior alternatives to the project (other than the No Project alternative) which would avoid or reduce the significant impacts associated with the proposed project to less-than-significant levels.

MITIGATION MONITORING PROGRAM

Attached to this resolution and incorporated and adopted as part thereof, is the Mitigation Monitoring and Reporting Program for the Lodi Shopping Center. The Program identifies the mitigation measures to be implemented in conjunction with the project, and designates responsibility for the implementation and monitoring of the mitigation measures, as well as the required timing of their implementation.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091-15093, the City Council of the City of Lodi hereby adopts and makes the following Statement of Overriding Considerations regarding the remaining significant and unavoidable impacts of the project and the anticipated economic, social and other benefits of the project.

A. Significant Unavoidable Impacts

With respect to the foregoing findings and in recognition of those facts which are included in the record, the City Council has determined that the project would result in significant unavoidable impacts to prime agricultural land and regional air quality. These impacts cannot be mitigated to a less-than-significant level by feasible changes or alterations to the project.

B. Overriding Considerations

The City Council specifically adopts and makes this Statement of Overriding Considerations that this project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant, unavoidable impacts of the project are acceptable in light of environmental, economic, social or other considerations set forth herein because the benefits of the project outweigh the significant and adverse effects of the project.

The City Council has considered the EIR, the public record of proceedings on the proposed project and other written materials presented to the City, as well as oral and written testimony received, and does hereby determine that implementation of the project as specifically provided in the project documents would result in the following substantial public benefits:

1. Project Will Generate City Sales Taxes. The sales generated by the Lodi Shopping Center will generate additional sales tax and property tax revenues for the City, which would otherwise not be generated by the undeveloped site. These revenues go to the City's General Fund which is the primary funding source for the construction, operation and maintenance of a number of essential City services, programs and facilities including fire and police services, recreation programs, transit operations, library services, public infrastructure such as water and sanitary sewer service, and administrative functions, among other things.
2. Project Creates Employment Opportunities for City Residents. The Lodi Shopping Center project will generate both temporary construction jobs as well as hundreds of permanent full-time and part-time jobs. The vast majority of the permanent jobs will not require special skills and therefore could be filled by existing local residents. Thus, with the exception of a very few management positions which will likely be filled by transferees from other localities, no specially-skilled workers would need to be "imported" from outside the City. Consequently, it is expected that City residents would benefit from added employment opportunities offered by the Lodi Shopping Center.
3. Project Will Implement Vital Municipal Infrastructure Improvements. Through the development of the project, a number of public infrastructure projects will be constructed on the project site and the project vicinity. As described on page 15 of the Draft EIR, the project will construct planned roadway improvements along the portions of Lower Sacramento Road and State Route 12/Kettleman Lane that front the project site, and as well as Westgate Drive to its full design width along the western project boundary. This is an economic benefit of the project in that these improvements would otherwise not be made without approval and implementation of the project. The project will also be conditioned to pay impact fees to the City in accordance with City's adopted Development Impact Fee program, which can be applied toward municipal improvements such as water, sewer, storm drainage, and streets, as well as police, fire, parks and recreation, and general City government. These are vital municipal improvements necessary to the function of the City and the quality of life for City residents, providing another economic benefit as well as social benefit of the project.
4. Project Implements Adopted City Plans. The project is situated within Lodi City limits and has been planned for commercial development in the current City of Lodi General Plan since its adoption in 1991. Therefore, the project implements adopted City plans and policies by accomplishing the City of Lodi long-term development plans for commercial use at the project site, consistent with City's growth control measures prioritizing in-fill development within the existing City boundaries. In addition, the project completes the development of the "Four Corners" area by providing a large-scale retail center on the last remaining undeveloped site at the Lower Sacramento Road/Kettleman Lane intersection consistent with the goals and policies of the City's General Plan and Zoning Ordinance.
5. Creates High Quality Design at Western Gateway to the City. The Lodi Shopping Center has been designed in conformance with the City's recently adopted Design Standards for Large Retail Establishments which will ensure a consistent high quality of design throughout the project site. This is a particularly important consideration given the project's visually prominent location at the western gateway to the City, and will effectively implement the General Plan goal and policies which call for the establishment of identifiable, visually appealing, and memorable entrances along the principal roads into the City.

The City Council has weighed the above economic and social benefits of the proposed project against its unavoidable environmental risks and adverse environmental effects identified in the EIR and has determined that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable.

6. The Final Environmental Impact Report for the Lodi Shopping Center project was certified by the Lodi Planning Commission pursuant to the California Environmental Quality Act by adoption of their Resolution No. 04-64 on December 8, 2004.. All feasible mitigation measures for the project identified in the Environmental Impact Report and accompanying studies are hereby incorporated into this resolution.

Dated: February 3, 2005

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I hereby certify that Resolution No. 2005-26 was passed and adopted by the City Council of the City of Lodi in a special meeting held February 3, 2005, by the following vote:

AYES:	COUNCIL MEMBERS – Hansen, Johnson, and Mounce
NOES:	COUNCIL MEMBERS – Hitchcock
ABSENT:	COUNCIL MEMBERS – Mayor Beckman
ABSTAIN:	COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk